

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND)	MDL NO. 1:13-MD-2419-FDS
COMPOUNDING PHARMACY, INC.)	
PRODUCTS LIABILITY LITIGATION)	JUDGE RYA W. ZOBEL
)	
This Documents Relates to:)	
)	
All Cases)	
_____)	

MOTION FOR LEAVE TO WITHDRAW AS COUNSEL FOR AMERIDOSE, LLC

Pursuant to Local Rule 83.5.2(c)(2), the law firm of Tucker, Saltzman, Dyer & O’Connell,¹ and individual lawyers Scott J. Tucker, Paul Saltzman, Scott H. Kremer and Matthew E. Mantalos (collectively the “Firm”), hereby move to withdraw as counsel for Ameridose, LLC (“Ameridose”). Ameridose, through its owners, does not object to the withdrawal. This Motion is made for good cause. There are two reasons justifying withdrawal: Ameridose is already immune from further prosecution of the MLD cases and will soon be formally dismissed; and Ameridose’s insurance has been exhausted and the Company cannot pay the Firm for its defense, to the extent a defense is even necessary.

On November 24, 2014, the Trustee, Paul D. Moore, entered into the Ameridose, LLC Insurance Settlement, Release and Injunction Agreement (the “Ameridose Settlement Agreement”) (Bankruptcy Docket No. 1123-4; NECC MDL Docket No. 1694-2 at Exhibit 2). In that Agreement, Ameridose and its insured, Pharmacists Mutual Insurance Company (“PMIC”), agreed that upon approval of the Chapter 11 Plan of New England Compounding Pharmacy, Inc., their liability in these cases would be extinguished and they would be beneficiaries of the plan

¹ Formerly known and originally appeared as “Tucker, Saltzman & Dyer, LLP.”

injunctions. (See Section 10.06 of the Complaint, Bankruptcy Docket No. 1355; NECC MDL Docket No. 18901-1 at Exhibit A).

On May 20, 2015, the United States Bankruptcy Court for the Eastern District of Massachusetts confirmed the Third Amended Joint Chapter 11 Plan of New England Compounding Pharmacy, Inc. (the “Plan”) (See Bankruptcy Docket Nos. 1352-1 and 1355; NECC MDL Docket Nos. 1890 and 1890-1). The Plan is effective as of the Plan Effective Date, which was June 4, 2015. In effect, because of the injunction, Ameridose is no longer an active part of the MDL as a party. Pursuant to the settlement agreement with the PSC, counsel for Ameridose and some other settlement defendants are cooperating to take whatever steps are reasonably necessary to effectuate the settlement; the parties are working on various plans to accomplish dismissals and thus formalize the end of Ameridose’s role as a party to the MDL.

PMIC originally retained the Firm, as well as *pro hac vice* counsel Tucker Ellis, LLP,² to defend Ameridose. PMIC’s duty to defend Ameridose terminated as of the Plan Effective date, which was June 4, 2015; PMIC has notified the Firm that it will no longer pay for Ameridose’s defense after June 3, 2015. The Firm is currently not aware of a law firm that has agreed to accept the representation of Ameridose in the MDL, to the extent representation is necessary, beyond June 3, 2015. Ameridose, through its owners, does not object to the Firm withdrawing as counsel.

² Tucker Ellis previously filed a separate Motion to Withdraw as counsel for Ameridose for the same grounds. (See NECC MDL Docket No. 1936).

Respectfully submitted,

/s/ Matthew E. Mantalos

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CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2015 I filed a copy of the foregoing by electronic means with the United States District Court for the District of Massachusetts using the CM/ECF system, which will send notification to counsel of record.

/s/ Matthew E. Mantalos

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